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PL 108-176 (HR 2115)
December 12, 2003
VISION 100--CENTURY OF AVIATION REAUTHORIZATION ACT

An Act To amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States
of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

<< 49 USCA § 40101 NOTE >>

(a) SHORT TITLE.--This Act may be cited as the "Vision 100--Century of Aviation Reauthorization Act".

(b) TABLE OF CONTENTS.--The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to title 49, United States Code.

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Sec. 4. Findings.

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Sec. 161. Temporary increase in Government share of certain AIP project costs.

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Sec. 185. Civil penalty for permanent closure of an airport without providing sufficient notice.

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Sec. 189. Limitation on approval of certain programs.

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Sec. 828. Report on waivers of preference for buying goods produced in the United States.

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TITLE IX--EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

Sec. 901. Extension of expenditure authority.

Sec. 902. Technical correction to flight segment.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

<< 49 USCA § 106 NOTE >>

SEC. 3. APPLICABILITY.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 2003.

<< 49 USCA § 10101 NOTE >>

SEC. 4. FINDINGS.

Congress finds the following:

- (1) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.
- (2) Past Federal investment in aeronautics research and development has benefited the economy and national security of the United States and the quality of life of its citizens.
- (3) The total impact of civil aviation on the United States economy exceeds \$900,000,000,000 annually and accounts for 9 percent of the gross national product and 11,000,000 jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of the Nation's highly skilled, technologically qualified work force.
- (4) Aerospace technologies, products, and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.
- (5) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.
- (6) Revitalization and coordination of the United States efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.
- (7) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that--
 - (A) aerospace will be at the core of the Nation's leadership and strength throughout the 21st century;
 - (B) aerospace will play an integral role in the Nation's economy, security, and mobility; and
 - (C) global leadership in aerospace is a national imperative.
- (8) Despite the downturn in the global economy, projections of the Federal Aviation Administration indicate that upwards of 1,000,000,000 people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.
- (9) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.

TITLE I--AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A--Funding of FAA Programs

SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.--Section 48103 is amended--

<< 49 USCA § 48103 >>

(1) by striking "September 30, 1998" and inserting "September 30, 2003"; and

<< 49 USCA § 48103 >>

(2) by striking paragraphs (1) through (5) and inserting the following:

- "(1) \$3,400,000,000 for fiscal year 2004;
- "(2) \$3,500,000,000 for fiscal year 2005;
- "(3) \$3,600,000,000 for fiscal year 2006; and
- "(4) \$3,700,000,000 for fiscal year 2007."

<< 49 USCA § 47104 >>

(b) OBLIGATIONAL AUTHORITY.--Section 47104(c) is amended by striking "September 30, 2003" and inserting "September 30, 2007".

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended--

<< 49 USCA § 48101 >>

(1) in subsection (a) by striking paragraphs (1) through (5) and inserting the following:

- "(1) \$3,138,000,000 for fiscal year 2004;
- "(2) \$2,993,000,000 for fiscal year 2005;
- "(3) \$3,053,000,000 for fiscal year 2006; and
- "(4) \$3,110,000,000 for fiscal year 2007.";

<< 49 USCA § 48101 >>

(2) by striking subsections (b), (d), and (e) and redesignating subsection (c) as subsection (b);

<< 49 USCA § 48101 >>

(3) by inserting after subsection (b) (as so redesignated) the following:

"(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.--Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

"(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.--Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used for the development and analysis of wake vortex advisory systems.

"(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.--Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 to 2007 may be used to establish a program for the installation of a precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and other such approach aids and is certified or approved by the Administrator.";

<< 49 USCA § 48101 >>

(4) in subsection (f)--

- (A) by striking "for fiscal years beginning after September 30, 2000"; and
- (B) by inserting "may be used" after "necessary"; and

<< 49 USCA § 48101 >>

(5) by adding at the end the following:

"(h) STANDBY POWER EFFICIENCY PROGRAM.--Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used by the Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, to establish a program to improve the efficiency, cost effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

"(i) PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.--Of amounts appropriated under subsection (a), \$500,000 for fiscal year 2004 may be used for the conduct of a pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of takeoffs and landings.".

SEC. 103. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

<< 49 USCA § 106 >>

(a) IN GENERAL.--Section 106(k)(1) is amended to read as follows:

"(1) SALARIES, OPERATIONS, AND MAINTENANCE.--There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration--

"(A) \$7,591,000,000 for fiscal year 2004;

"(B) \$7,732,000,000 for fiscal year 2005;

"(C) \$7,889,000,000 for fiscal year 2006; and

"(D) \$8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended."

(b) AUTHORIZED EXPENDITURES.--Section 106(k)(2) is amended--

<< 49 USCA § 106 >>

(1) by striking subparagraphs (A) and (B) and subparagraphs (F) through (I);

<< 49 USCA § 106 >>

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively;

<< 49 USCA § 106 >>

(3) in subparagraphs (A), (B), and (C) (as so redesignated) by striking "fiscal years 2000 through 2003" and inserting "fiscal years 2004 through 2007"; and

<< 49 USCA § 106 >>

(4) by adding after subparagraph (C) (as so redesignated) the following:

"(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.

"(E) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

"(F) Such sums as may be necessary for fiscal years 2004 through 2007 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

"(G) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out the Aviation Safety Reporting System."

(c) AIRLINE DATA AND ANALYSIS.--There is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$3,971,000 for fiscal year 2004, \$4,045,000 for fiscal year 2005, \$4,127,000 for fiscal year 2006, and \$4,219,000 for fiscal year 2007 to gather aviation data and conduct analyses of such data in the Bureau of Transportation Statistics of the Department of Transportation.

SEC. 104. FUNDING FOR AVIATION PROGRAMS.

(a) IN GENERAL.--Chapter 481 is further amended by adding at the end the following:

<< 49 USCA § 48114 >>

"§ 48114. Funding for aviation programs

"(a) AUTHORIZATION OF APPROPRIATIONS.--

"(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.--

"(A) IN GENERAL.--The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106 (k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).

"(B) GUARANTEE.--No funds may be appropriated or limited for aviation investment programs listed in subsection (b) unless the amount described in subparagraph (A) has been provided.

"(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.--In any fiscal year through fiscal year 2007, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

"(b) DEFINITIONS.--In this section, the following definitions apply:

"(1) TOTAL BUDGET RESOURCES.--The term 'total budget resources' means the total amount made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this title and for which appropriations are provided pursuant to authorizations contained in this title:

"(A) 69-8106-0-7-402 (Grants in Aid for Airports).

"(B) 69-8107-0-7-402 (Facilities and Equipment).

"(C) 69-8108-0-7-402 (Research and Development).

"(D) 69-8104-0-7-402 (Trust Fund Share of Operations).

"(2) LEVEL OF RECEIPTS PLUS INTEREST.--The term 'level of receipts plus interest' means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) (Treasury identification code 20-8103-0-7-402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

"(c) ENFORCEMENT OF GUARANTEES.--

"(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.--It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

"(2) CAPITAL PRIORITY.--It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year 2007 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in- Aid for Airports and for Facilities and Equipment for such fiscal year."

<< 49 USCA prec. § 48101 >>

(b) CONFORMING AMENDMENT.--The analysis for chapter 481 is amended by adding at the end the following:

"48114. Funding for aviation programs."

<< 49 USCA § 48101 NOTE >>

(c) REPEAL.--Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 48101 note) and the item relating to such section in the table of contents in section 1(b) of such Act are repealed.

SEC. 105. AGREEMENTS FOR OPERATION OF AIRPORT FACILITIES.

Section 47124 is amended--

<< 49 USCA § 47124 >>

(1) by striking subsection (a) and inserting the following:

"(a) GOVERNMENT RELIEF FROM LIABILITY.--The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.";

<< 49 USCA § 47124 >>

(2) by striking subsection (b)(2) and inserting the following:

"(2) The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.";

(3) in subsection (b)(3)--

<< 49 USCA § 47124 >>

(A) in the paragraph heading by striking "PILOT";

<< 49 USCA § 47124 >>

(B) by striking "pilot" each place it appears; and

<< 49 USCA § 47124 >>

(C) in subparagraph (E) by striking "\$6,000,000 per fiscal year" and inserting "\$6,500,000 for fiscal 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007"; and

<< 49 USCA § 47124 >>

(4) in subsection (b)(4)(C) by striking "\$1,100,000." and inserting "\$1,500,000.".

SEC. 106. INSURANCE.

(a) AIRCRAFT MANUFACTURERS.--

<< 49 USCA § 44302 >>

(1) IN GENERAL.--Section 44302 is amended by adding at the end the following:

"(g) AIRCRAFT MANUFACTURERS.--

"(1) IN GENERAL.--The Secretary may provide to an aircraft manufacturer insurance for loss or damage resulting from operation of an aircraft by an air carrier and involving war or terrorism.

"(2) AMOUNT.--Insurance provided by the Secretary under this subsection shall be for loss or damage in excess of the greater of the amount of available primary insurance or \$50,000,000.

"(3) TERMS AND CONDITIONS.--Insurance provided by the Secretary under this subsection shall be subject to the terms and conditions set forth in this chapter and such other terms and conditions as the Secretary may prescribe.".

(2) DEFINITION OF AIRCRAFT MANUFACTURER.--Section 44301 is amended--

<< 49 USCA § 44301 >>

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

<< 49 USCA § 44301 >>

(B) by inserting before paragraph (2) (as so redesignated) the following:

"(1) 'aircraft manufacturer' means any company or other business entity, the majority ownership and control of which is by United States citizens, that manufactures aircraft or aircraft engines."

(3) COVERAGE.--Section 44303(a) is amended--

<< 49 USCA § 44303 >>

(A) in the subsection heading by striking "IN GENERAL" and inserting "IN GENERAL"; and

<< 49 USCA § 44303 >>

(B) by adding at the end the following:

"(6) loss or damage of an aircraft manufacturer resulting from operation of an aircraft by an air carrier and involving war or terrorism."

<< 49 USCA § 44303 >>

(b) AIRCRAFT MANUFACTURER LIABILITY FOR THIRD-PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.--Section 44303(b) is amended by adding at the end the following: "The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved."

<< 49 USCA § 44306 >>

(c) PREMIUMS AND LIMITATIONS ON COVERAGE AND CLAIMS.--Section 44306(b) is amended by striking "air" and inserting "insurance".

<< 49 USCA § 44310 >>

(d) ENDING EFFECTIVE DATE.--Section 44310 is amended by striking "December 31, 2004" and inserting "March 30, 2008".

<< 49 USCA § 44306 NOTE >>

<< 49 USCA § 44306 >>

(e) TECHNICAL CORRECTION.--Effective November 19, 2001, section 124(b) of the Aviation and Transportation Security Act (115 Stat. 631) is amended by striking "to carry out foreign policy" and inserting "to carry out the foreign policy".

Subtitle B--Passenger Facility Fees

SEC. 121. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

<< 49 USCA § 40117 >>

(a) IN GENERAL.--Section 40117(a)(3) is amended by inserting at the end the following:

"(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if

the airport is located in an air-quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139."

<< 49 USCA § 40117 >>

(b) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.--Section 40117(b) is amended by adding at the end the following:

"(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.--The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary."

(c) GROUND SUPPORT EQUIPMENT DEFINED.--Section 40117(a) is amended--

<< 49 USCA § 40117 >>

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

<< 49 USCA § 40117 >>

(2) by inserting after paragraph (3) the following:

"(4) GROUND SUPPORT EQUIPMENT.--The term 'ground support equipment' means service and maintenance equipment used at an airport to support aeronautical operations and related activities."

<< 49 USCA § 40117 NOTE >>

(d) GUIDANCE.--The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section.

<< 49 USCA § 40117 >>

SEC. 122. USE OF FEES TO PAY DEBT SERVICE.

Sections 40117(b) is further amended by adding at the end the following:

"(6) DEBT SERVICE FOR CERTAIN PROJECTS.--In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility fee imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport."

SEC. 123. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

(a) APPLICATION REQUIREMENTS.--Section 40117(c) is amended--

<< 49 USCA § 40117 >>

(1) by adding at the end of paragraph (2) the following:

"(E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

"(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term

'significant business interest' means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.";

<< 49 USCA § 40117 >>

(2) by redesignating paragraph (3) as paragraph (4);

<< 49 USCA § 40117 >>

(3) by inserting after paragraph (2) the following:

"(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

"(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies that may be affected. The public notice may include--

"(i) publication in local newspapers of general circulation;

"(ii) publication in other local media; and

"(iii) posting the notice on the agency's Internet website.

"(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

"(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B)."; and

<< 49 USCA § 40117 >>

(4) in the first sentence of paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking "shall" and inserting "may".

<< 49 USCA § 40117 >>

(b) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.--
Section 40117 is amended by adding at the end the following:

"(I) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.--

"(1) IN GENERAL.--The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

"(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.--The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

"(3) NOTICE OF INTENTION.--The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. The notice shall include--

"(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

"(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

"(C) the level of the passenger facility fee that is proposed.

"(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.--The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

"(5) AUTHORITY TO IMPOSE FEE.--Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in

accordance with the terms of its notice under this subsection.

"(6) REGULATIONS.--Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

"(7) SUNSET.--This subsection shall cease to be effective beginning on the date that is 3 years after the date of issuance of regulations to carry out this subsection.

"(8) ACKNOWLEDGEMENT NOT AN ORDER.--An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110."

(c) CLARIFICATION OF APPLICABILITY OF PFC'S TO MILITARY CHARTERS.--Section 40117(e)(2) is amended--

<< 49 USCA § 40117 >>

(1) by striking the period at the end of subparagraph (C) and inserting a semicolon;

<< 49 USCA § 40117 >>

(2) by striking "and" at the end of subparagraph (D);

<< 49 USCA § 40117 >>

(3) by striking the period at the end of subparagraph (E) and inserting "; and"; and

<< 49 USCA § 40117 >>

(4) by adding after subparagraph (E) the following:

"(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense."

<< 49 USCA § 40117 >>

(d) TECHNICAL AMENDMENTS.--Section 40117(a)(3)(C) is amended--

(1) by striking "for costs" and inserting "A project for costs"; and

(2) by striking the semicolon and inserting a period.

<< 49 USCA § 40117 NOTE >>

(e) ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS.--Not later than 60 days after the enactment of this Act, the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.

<< 49 USCA § 40117 >>

SEC. 124. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES.

Section 40117 is further amended by adding at the end the following:

"(m) FINANCIAL MANAGEMENT OF FEES.--

"(1) HANDLING OF FEES.--A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for fees collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

"(2) TRUST FUND STATUS.--If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

"(3) PROHIBITION.--A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

"(4) COMPENSATION TO ELIGIBLE ENTITIES.--A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds,

through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

"(5) INTEREST ON AMOUNTS.--A covered air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts if the accounts are established and maintained in compliance with this subsection.

"(6) EXISTING REGULATIONS.--The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall not apply to a covered air carrier.

"(7) COVERED AIR CARRIER DEFINED.--In this section, the term 'covered air carrier' means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection."

Subtitle C--AIP Modifications

<< 49 USCA § 47102 >>

SEC. 141. AIRFIELD PAVEMENT.

Section 47102(3)(H) is amended by inserting "nonhub airports and" before "airports that are not primary airports".

<< 49 USCA § 47102 >>

SEC. 142. REPLACEMENT OF BAGGAGE CONVEYOR SYSTEMS.

Section 47102(3)(B)(x) is amended by striking the period at the end and inserting the following: "; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114."

<< 49 USCA § 44901 NOTE >>

SEC. 143. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

Section 308 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note; 110 Stat. 3253), and the item relating to such section in the table of contents contained in section 1(b) of that Act, are repealed.

SEC. 144. GRANT ASSURANCES.

<< 49 USCA § 47107 >>

(a) STATUTE OF LIMITATIONS.--Section 47107(l)(5)(A) is amended by inserting "or any other governmental entity" after "sponsor".

(b) AUDIT CERTIFICATION.--Section 47107(m) is amended--

<< 49 USCA § 47107 >>

(1) in paragraph (1) by striking "promulgate regulations that" and inserting "include a provision in the compliance supplement provisions to";

<< 49 USCA § 47107 >>

(2) in paragraph (1) by striking "and opinion of the review"; and

<< 49 USCA § 47107 >>

(3) by striking paragraph (3).

<< 49 USCA § 47110 >>

SEC. 145. CLARIFICATION OF ALLOWABLE PROJECT COSTS.

Section 47110(b)(1) is amended by inserting before the semicolon at the end "and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type".

SEC. 146. APPORTIONMENTS TO PRIMARY AIRPORTS.

<< 49 USCA § 47110 >>

(a) IN GENERAL.--Section 47114(c)(1) is amended by adding at the end the following:

"(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.--Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that--

"(i) the passenger boardings at the airport were below 10,000 in calendar year 2002 or 2003;

"(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

"(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.".

(b) SPECIAL RULE FOR TRANSITIONING AIRPORTS.--Section 47114(f)(3) is amended--

<< 49 USCA § 47114 >>

(1) in the paragraph heading by striking "AIRORTS" and inserting "AIRPORTS"; and

<< 49 USCA § 47114 >>

(2) in subparagraph (B) by striking "fiscal years 2000 through 2003" and inserting "fiscal year 2004".

SEC. 147. CARGO AIRPORTS.

Section 47114(c)(2) is amended--

<< 49 USCA § 47114 >>

(1) in the paragraph heading by striking "ONLY"; and

<< 49 USCA § 47114 >>

(2) in subparagraph (A) by striking "3 percent" and inserting "3.5 percent".

<< 49 USCA § 47115 >>

SEC. 148. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

Section 47115(d) is amended to read as follows:

"(d) CONSIDERATIONS.--

"(1) FOR CAPACITY ENHANCEMENT PROJECTS.--In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider--

"(A) the effect that the project will have on overall national transportation system capacity;

"(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the

number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

"(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

"(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B);

"(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out; and

"(F) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.

"(2) FOR ALL PROJECTS.--In selecting a project for a grant under this section, the Secretary shall consider among other factors whether--

"(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

"(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later."

SEC. 149. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

<< 49 USCA § 47108 >>

(a) PROJECT GRANT AGREEMENTS.--Section 47108(a) is amended by inserting "or 47114(d)(3)(A)" after "under section 47114(c)".

(b) ALLOWABLE PROJECT COSTS.--Section 47110 is amended--

<< 49 USCA § 47110 >>

(1) in subsection (b)(2)(C) by striking "of this title" and inserting "or section 47114(d)(3)(A)";

<< 49 USCA § 47110 >>

(2) in subsection (g)--

(A) by inserting "or section 47114(d)(3)(A)" after "of section 47114(c)"; and

(B) by striking "of project" and inserting "of the project"; and

<< 49 USCA § 47110 >>

(3) by adding at the end the following:

"(h) NONPRIMARY AIRPORTS.--The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport."

<< 49 USCA § 47117 >>

(c) WAIVER.--Section 47117(c)(2) is amended to read as follows:

"(2) WAIVER.--A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary."

(d) TERMINAL DEVELOPMENT COSTS.--Section 47119(b) is amended--

<< 49 USCA § 47119 >>

(1) by striking "or" at the end of paragraph (3);

<< 49 USCA § 47119 >>

(2) by striking the period at the end of paragraph (4) and inserting "; or"; and

<< 49 USCA § 47119 >>

(3) by adding at the end the following:

"(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).".

<< 49 USCA § 47117 >>

SEC. 150. USE OF APPORTIONED AMOUNTS.

The first sentence of section 47117(b) is amended by striking "primary airport" and all that follows through "calendar year" and inserting "nonhub airport or any airport that is not a commercial service airport".

<< 49 USCA § 47117 >>

SEC. 151. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

Section 47117(e)(1)(A) is amended--

(1) by striking "At least 34 percent" and inserting "At least 35 percent";

(2) by striking "of this title and" and inserting a comma;

(3) by striking "of this title." and inserting ", for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)."; and

(4) by striking "34 percent requirement" and inserting "35 percent requirement".

SEC. 152. PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

(a) IN GENERAL.--Subchapter I of chapter 471 is amended by adding at the end the following:

<< 49 USCA § 47138 >>

"§ 47138. Pilot program for purchase of airport development rights

"(a) IN GENERAL.--The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

"(b) Grant Requirements--

"(1) IN GENERAL.--The Secretary may not make a grant under subsection (a) unless the grant is made--

"(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

"(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

"(2) MATCHING REQUIREMENT.--The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

"(c) GRANT STANDARDS.--The Secretary shall prescribe standards for grants under subsection (a), including--

"(1) grant application and approval procedures; and

"(2) requirements for the content of the instrument recording the purchase of the development rights.

"(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.--Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

"(e) LIMITATION.--The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports."

<< 49 USCA prec. § 47101 >>

(b) CONFORMING AMENDMENT.--The analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

"47138. Pilot program for purchase of airport development rights."

SEC. 153. MILITARY AIRPORT PROGRAM.

Section 47118 is amended--

<< 49 USCA § 47118 >>

(1) in subsection (e) by striking "Not more than \$7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available" and inserting "From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available";

<< 49 USCA § 47118 >>

(2) in subsection (f) by striking "Not more than a total of \$7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available" and inserting the following:

"(1) CONSTRUCTION.--From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available"; and

<< 49 USCA § 47118 >>

(3) by adding at the end of subsection (f) the following:

"(2) REIMBURSEMENT.--Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47115 or 47117(e)(1)(B), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1)."

SEC. 154. AIRPORT SAFETY DATA COLLECTION.

Section 47130 is amended to read as follows:

<< 49 USCA § 47130 >>

"§ 47130. Airport safety data collection

"Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private

company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent."

SEC. 155. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) IN GENERAL.--Section 47134(b)(1) is amended--

<< 49 USCA § 47134 >>

(1) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

"(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or
 "(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.";

<< 49 USCA § 47134 >>

(2) by redesignating subparagraph (B) as subparagraph (C); and

<< 49 USCA § 47134 >>

(3) by inserting after subparagraph (A) the following:

"(B) OBJECTION TO EXEMPTION.--An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later."

<< 49 USCA § 47134 NOTE >>

(b) EFFECTIVE DATE.--The amendments made by subsection (a) shall not affect any application submitted before the date of enactment of this Act.

<< 49 USCA § 47135 >>

SEC. 156. INNOVATIVE FINANCING TECHNIQUES.

The first sentence of section 47135(a) is amended by inserting after "approve" the following: ", after the date of enactment of the Vision 100--Century of Aviation Reauthorization Act,".

SEC. 157. AIRPORT SECURITY PROGRAM.

Section 47137 is amended--

<< 49 USCA § 47137 >>

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

<< 49 USCA § 47137 >>

(2) by inserting after subsection (d) the following:

"(e) ADMINISTRATION.--The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section."

SEC. 158. EMISSION CREDITS FOR AIR QUALITY PROJECTS.

(a) EMISSIONS CREDIT.--Subchapter I of chapter 471 is further amended by adding at the end the following:

<< 49 USCA § 47139 >>

"§ 47139. Emission credits for air quality projects

"(a) IN GENERAL.--The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(F), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

"(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

"(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport.

"(3) Credits are calculated and provided to airports on a consistent basis nationwide.

"(4) Credits are provided to airport sponsors in a timely manner.

"(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

"(b) ASSURANCE OF RECEIPT OF CREDITS.--As a condition for making a grant for a project described in section 47102(3)(F), 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47103(3)(F), 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

"(c) PREVIOUSLY APPROVED PROJECTS.--The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall determine how to provide appropriate emissions credits to airport projects previously approved under section 47136 consistent with the guidance and conditions specified in subsection (a).

"(d) STATE AUTHORITY UNDER CAA.--Nothing in this section shall be construed as overriding existing State law or regulation pursuant to section 116 of the Clean Air Act (42 U.S.C. 7416)."

<< 49 USCA prec. § 47101 >>

(b) CONFORMING AMENDMENT.--The analysis for chapter 471 is further amended by inserting after the item relating to section 47138 the following:

"47139. Emission credits for air quality projects."

SEC. 159. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.--

(1) IN GENERAL.--Subchapter I of chapter 471 is further amended by adding at the end the following:

<< 49 USCA § 47140 >>

"§ 47140. Airport ground support equipment emissions retrofit pilot program

"(a) IN GENERAL.--The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

"(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.--A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air

quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

"(c) **SELECTION CRITERIA.**--In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

"(d) **MAXIMUM AMOUNT.**--Not more than \$500,000 may be expended under the pilot program at any single commercial service airport.

"(e) **GUIDELINES.**--The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

"(f) **ELIGIBLE EQUIPMENT DEFINED.**--In this section, the term 'eligible equipment' means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier."

<< 49 USCA prec. § 47101 >>

(2) **CONFORMING AMENDMENT.**--The analysis for chapter 471 is further amended by inserting after the item relating to section 47139 the following:

"47140. Airport ground support equipment emissions retrofit pilot program."

(b) **ACTIVITIES ADDED TO DEFINITION OF AIRPORT DEVELOPMENT.**--

(1) **IN GENERAL.**--Section 47102(3) is amended--

<< 49 USCA § 47102 >>

(A) by striking subparagraphs (J), (K), and (L) and redesignating subparagraph (M) as subparagraph (J); and

<< 49 USCA § 47102 >>

(B) by adding at the end the following:

"(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47139.

"(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139."

<< 49 USCA § 47102 NOTE >>

(2) **GUIDANCE.**--

(A) **ELIGIBLE LOW-EMISSION MODIFICATIONS AND IMPROVEMENTS.**--The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(K) of title 49, United States Code, as added by this subsection.

(B) **ELIGIBLE LOW-EMISSION VEHICLE TECHNOLOGY.**--The Secretary, in consultation with the Administrator, shall issue guidance describing eligible low-emission vehicle technology, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(L) of title 49, United States Code, as added by this subsection.

(c) ALLOWABLE PROJECT COST.--Section 47110(b) is amended--

<< 49 USCA § 47110 >>

(1) by striking "and" at the end of paragraph (4);

<< 49 USCA § 47110 >>

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

<< 49 USCA § 47110 >>

(3) by adding at the end the following:

"(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary."

<< 49 USCA § 47102 >>

(d) LOW-EMISSION TECHNOLOGY EQUIPMENT.--Section 47102 (as amended by section 801 of this Act) is further amended by inserting after paragraph (10) the following:

"(11) 'low-emission technology' means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles."

SEC. 160. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.--Subchapter I of chapter 471 is further amended by adding at the end the following:

<< 49 USCA § 47141 >>

"§ 47141. Compatible land use planning and projects by State and local governments

"(a) IN GENERAL.--The Secretary of Transportation may make grants, from amounts set aside under section 47117(e)(1)(A), to States and units of local government for development and implementation of land use compatibility plans and implementation of land use compatibility projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations. The Secretary may make a grant under this section for a land use compatibility plan or a project resulting from such plan only if--

"(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the preceding 10 years; and

"(2) the land use plan or project meets the requirements of this section.

"(b) ELIGIBILITY.--In order to receive a grant under this section, a State or unit of local government must--

"(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

"(2) enter into an agreement with the airport owner or operator that the development of the land use compatibility plan will be done cooperatively; and

"(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

"(c) ASSURANCES.--The Secretary shall require a State or unit of local government to which a grant may be made under this section for a land use plan or a project resulting from such plan to provide-

"(1) assurances satisfactory to the Secretary that the plan--

"(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;

"(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other land use compatibility measures under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

"(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

"(D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and

"(E) has been approved jointly by the airport owner or operator and the State or unit of local government; and

"(2) such other assurances as the Secretary determines to be necessary to carry out this section.

"(d) GUIDELINES.--The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require a State or unit of local government to which a grant may be made under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

"(e) ELIGIBLE PROJECTS.--The Secretary may approve a grant under this section to a State or unit of local government for a project resulting from a land use compatibility plan only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, the State or unit of local government has provided the assurances required by this section, the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with applicable Federal Aviation Administration standards.

"(f) SUNSET.--This section shall not be in effect after September 30, 2007."

<< 49 USCA prec. § 47101 >>

(b) CONFORMING AMENDMENT.--The analysis of subchapter I of chapter 471 is further amended by adding at the end the following:

"47141. Compatible land use planning and projects by State and local governments."

<< 49 USCA § 47109 NOTE >>

SEC. 161. TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS.

Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in each of fiscal years 2004 through 2007 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 162. SHARE OF AIRPORT PROJECT COSTS.

(a) IN GENERAL.--Section 47109 is amended--

<< 49 USCA § 47109 >>

(1) by redesignating subsection (c) as subsection (d); and

<< 49 USCA § 47109 >>

(2) by inserting after subsection (b) the following:

"(c) GRANDFATHER RULE.--

"(1) IN GENERAL.--In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by

the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if--

"(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

"(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

"(2) LIMITATION.--The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b)."

<< 49 USCA § 47109 >>

(b) CONFORMING AMENDMENT.--Subsection (a) of section 47109 is amended by striking "Except as provided in subsection (b)" and inserting "Except as provided in subsection (b) or subsection (c)".

<< 49 USCA § 47109 >>

SEC. 163. FEDERAL SHARE FOR PRIVATE OWNERSHIP OF AIRPORTS.

Section 47109(a)(4) is amended by striking "40 percent" and inserting "70 percent".

<< 49 USCA § 47107 >>

SEC. 164. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES.

Section 47107(c)(2)(A)(iii) is amended by inserting before the semicolon at the end the following: ", including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program".

SEC. 165. HANGAR CONSTRUCTION GRANT ASSURANCE.

Section 47107(a) is amended--

<< 49 USCA § 47107 >>

(1) by striking "and" at the end of paragraph (19);

<< 49 USCA § 47107 >>

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

<< 49 USCA § 47107 >>

(3) by adding at the end the following:

"(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose."

<< 49 USCA § 47119 >>

SEC. 166. TERMINAL DEVELOPMENT COSTS.

Section 47119(a) is amended to read as follows:

"(a) REPAYING BORROWED MONEY.--

"(1) Terminal development costs incurred after June 30, 1970, and before July 12, 1976--An amount

apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

"(2) Terminal development costs incurred between January 1, 1992, and October 31, 1992--An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

"(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.--An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport--

"(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

"(B) that is a designated airport under section 47118 in fiscal year 2003; and

"(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

"(4) CONDITIONS FOR GRANT.--An amount is available for a grant under this subsection only if--

"(A) the sponsor submits the certification required under section 47110(d);

"(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

"(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 1 year beginning on the date the grant is used to repay the borrowed money.

"(5) APPLICABILITY OF CERTAIN LIMITATIONS.--A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2)."

Subtitle D--Miscellaneous

SEC. 181. DESIGN-BUILD CONTRACTING.

(a) IN GENERAL.--Subchapter I of chapter 471 is further amended by adding at the end the following:

<< 49 USCA § 47142 >>

"§ 47142. Design-build contracting

"(a) IN GENERAL.--The Administrator of the Federal Aviation Administration may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if--

"(1) the Administrator approves the application using criteria established by the Administrator;

"(2) the design-build contract is in a form that is approved by the Administrator;

"(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

"(4) use of a design-build contract will be cost effective and expedite the project;

"(5) the Administrator is satisfied that there will be no conflict of interest; and

"(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least 3 or more bids will be submitted for each project under the selection process.

"(b) REIMBURSEMENT OF COSTS.--The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter if the project were carried out after a grant agreement had been executed.

"(c) DESIGN-BUILD CONTRACT DEFINED.--In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor."

<< 49 USCA prec. § 47101 >>

(b) CONFORMING AMENDMENT.--The analysis for chapter 471 is further amended by inserting after the item relating to section 47141 the following:

"47142. Design-build contracting."

<< 49 USCA § 44502 NOTE >>

SEC. 182. PILOT PROGRAM FOR INNOVATIVE FINANCING OF AIR TRAFFIC CONTROL EQUIPMENT.

(a) IN GENERAL.--In order to test the cost effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending, subject to section 1341 of title 31, United States Code, a contract for more than one, but not more than 20, fiscal years to purchase and install air traffic control equipment for the Administration. Such amendments may be for more than one, but not more than 10, fiscal years.

(b) CANCELLATION.--A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

(c) CONTRACT PROVISIONS.--If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic lot purchases and more efficient production rates.

(d) LIMITATION.--The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

(e) ANNUAL REPORTS.--At the end of each fiscal year during the term of the pilot program, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments that are entered into under the program, and the program's cost effectiveness.

(f) FUNDING.--Out of amounts appropriated under section 48101 for fiscal year 2004, such sums as may be necessary shall be available to carry out this section.

SEC. 183. COST SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) IN GENERAL.--Chapter 445 is amended by adding at the end the following:

<< 49 USCA § 44517 >>

"§ 44517. Program to permit cost sharing of air traffic modernization projects

"(a) IN GENERAL.--Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control equipment and software.

"(b) FEDERAL SHARE.--The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117.

"(c) LIMITATION ON GRANT AMOUNTS.--No eligible project may receive more than \$5,000,000 in Federal funds under the program.

"(d) FUNDING.--The Secretary shall use amounts appropriated under section 48101(a) to carry out the program.

"(e) DEFINITIONS.--In this section, the following definitions apply:

"(1) **ELIGIBLE PROJECT.**--The term 'eligible project' means a project to purchase equipment or software relating to the Nation's air traffic control system that is certified or approved by the Administrator of the Federal Aviation Administration and that promotes safety, efficiency, or mobility. Such projects may include--

"(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, and lighting improvements;

"(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

"(C) equipment and software that enhance airspace control procedures or assist in en route surveillance, including oceanic and offshore flight tracking.

"(2) **PROJECT SPONSOR.**--The term 'project sponsor' means any major user of the national airspace system, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

"(f) **TRANSFERS OF EQUIPMENT.**--Notwithstanding any other provision of law, and upon agreement by the Administrator, a project sponsor may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

"(g) **GUIDELINES.**--The Administrator shall issue advisory guidelines on the implementation of the program. The guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5."

<< 49 USCA prec. § 44501 >>

(b) **CONFORMING AMENDMENT.**--The analysis for chapter 445 is amended by adding at the end the following:

"44517. Program to permit cost sharing of air traffic modernization projects."

<< 49 USCA § 48101 NOTE >>

SEC. 184. FACILITIES AND EQUIPMENT REPORTS.

(a) **BIANNUAL REPORTS.**--Beginning 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes--

(1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;

(2) any changes in the budget for such programs;

(3) the program schedule; and

(4) technical risks associated with the programs.

(b) **SUNSET PROVISION.**--This section shall cease to be effective beginning on the date that is 4 years after the date of enactment of this Act.

SEC. 185. CIVIL PENALTY FOR PERMANENT CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) **IN GENERAL.**--Chapter 463 is amended by adding at the end the following:

<< 49 USCA § 46319 >>

"§ 46319. Permanent closure of an airport without providing sufficient notice

"(a) **PROHIBITION.**--A public agency (as defined in section 47102) may not permanently close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days

before the date of the closure.

"(b) PUBLICATION OF NOTICE.--The Administrator shall publish each notice received under subsection (a) in the Federal Register.

"(c) CIVIL PENALTY.--A public agency violating subsection (a) shall be liable for a civil penalty of \$10,000 for each day that the airport remains closed without having given the notice required by this section."

<< 49 USCA prec. § 46301 >>

(b) CONFORMING AMENDMENT.--The analysis for chapter 463 is amended by adding at the end the following:

"46319. Permanent closure of an airport without providing sufficient notice."

SEC. 186. MIDWAY ISLAND AIRPORT.

(a) FINDINGS.--Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commercial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.--The Secretaries of Transportation, Defense, Interior, and Homeland Security shall enter into a memorandum of understanding to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.--The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(d) FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.--The Secretary of Transportation may enter into a reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport for fiscal years ending before October 1, 2007, from amounts available in the discretionary fund established by section 47115 of such title. The maximum obligation under the agreement for any such fiscal year shall be \$2,500,000.

SEC. 187. INTERMODAL PLANNING.

Section 47106(c)(1)(A) is amended--

<< 49 USCA § 47106 >>

(1) by striking "and" at the end of clause (i);

<< 49 USCA § 47106 >>

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